

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

MICIAH BLACK,

*Plaintiff,*

vs.

CHRISTOPHER HARTLEY,

*Defendant.*

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Case No. 2:23-cv-03954

Judge Jeffery P. Hopkins

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

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This matter is before the Court on the Report and Recommendation issued by Magistrate Judge Kimberly A. Jolson on January 16, 2024. Doc. 6. After performing an initial screen of Plaintiff's Complaint pursuant to 28 U.S.C. § 1915(e)(2), the Magistrate Judge recommended that the Court dismiss this second case, No. 2:23-cv-3954, as duplicative of the first case, *Miciah Black v. Ohio Department of Rehabilitation and Corrections, et al.*, Case No. 1:23-cv-404, both of which concern the same September 27, 2021 incident at Lebanon Correctional Institution involving Plaintiff and Officer Hartley.<sup>1</sup> Doc. 6, PageID 25–26 . Furthermore, the Magistrate Judge found that this second case “‘appears to be subject to dismissal . . . even if the case is not found to be duplicative,’ because of the third issue discussed in the first case: the existence of an adequate state remedy.” *Id.* (citing Doc. 4, PageID 20–21). The Court has

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<sup>1</sup> On September 1, 2023, the Magistrate Judge screened the first complaint and recommended that the first case be dismissed with prejudice and in its entirety for three reasons. Doc. 6 in Case No. 1:23-cv-404. The Magistrate Judge found that: “(1) that the ODRC was not a proper defendant, (2) that the Eleventh Amendment barred any claim for monetary damages against Officer Hartley in his official capacity, and (3) that the claim for loss of personal property could not proceed because Plaintiff had (and used) an available and adequate state remedy to address the issue; that is, he sued in the Ohio Court of Claims and lost.” Doc. 6, PageID 24.

reviewed Plaintiff's Complaint and the Report and Recommendation. No objections have been filed and the time for filing such objections under Fed. R. Civ. P. 72(b) has expired.

Having carefully reviewed the comprehensive findings and conclusions of the Magistrate Judge and finding no clear error, the Court hereby **ADOPTS** the Report and Recommendation in its entirety. *See* Fed. R. Civ. P. 72 (advisory committee notes from 1983 amendment) ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation"); *see e.g., Roane v. Warden of Corr. Reception Ctr.*, No. 2:22-cv-2768, 2022 WL 16535903, at \*1 (S.D. Ohio Oct. 28, 2022). Accordingly, it is hereby **ORDERED** that the Complaint be **DISMISSED WITH PREJUDICE** as duplicative of the first case. For the reasons stated in the Report and Recommendation and pursuant to 28 U.S.C. § 1915(a)(3), the Court certifies that an appeal of this Order would lack an arguable basis in law or in fact and thus would not be taken in good faith. The Court accordingly **DENIES** Plaintiff leave to appeal *in forma pauperis*. In accordance with Fed. R. App. P. 24(a)(5), Plaintiff remains free to file a motion for leave to proceed on appeal *in forma pauperis* in the Sixth Circuit Court of Appeals. *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999).

**IT IS SO ORDERED.**

Dated: February 5, 2025

  
Hon. Jeffrey P. Hopkins  
United States District Judge